

## **MINUTES**

### **RILEY COUNTY BOARD OF ZONING APPEALS**

**Monday, September 20, 2004  
1:30 p.m.**

**Riley County Office Building  
Second Floor Meeting Room**

Members Present:     Derek Mosier – Chair  
                               Bob Buchanan  
                               Nyle Larson

Staff Present:         Bob Isaac – Planner; Sherie Taylor – Administrative Assistant; Derrick  
                               Slocum – Planning Intern; Amanda Smith – Clerical Assistant

Others Present:       John Eichman – representative; Roger Nauerth – interested person

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The minutes of the August 16, 2004 meeting were approved.

#### **WAMEGO SAND – AMEND CONDITIONAL USE #94-08**

Chairman Mosier opened the public hearing at the request of Wamego Sand Co, Inc, petitioner, and Karen McKeeman, Gerald Lake and William P. and Ruby L. Deam Trust, owners, to amend Conditional Use # 94-08 by expanding the physical boundaries of the existing site and continuing the existing sand and gravel mining operation in a "G-1" (General Agricultural) zoning district. Located in Manhattan Township, Sections 30 and 31, Township 10 South, Range 8 East.

Derrick Slocum, Planning Intern, presented the staff report. He explained that the site is 93.5 acres and explained that a portion of the proposed conditional use amendment was zoned "D-3" (Heavy Industrial) until it was recently rezoned to "G-1" (General Agricultural). He indicated the location of the existing conditional use (#94-08) boundary and the specific areas where Wamego Sand Co. wants to expand. Mr. Slocum explained that Wamego Sand Co. wants to enlarge the total area, but not the amount of land used for excavation, in order to retain the operations' "grandfathered" rights regarding annual licensing for quarrying. Mr. Slocum stated that staff recommended approval of the request contingent upon the conditions listed in the staff report.

Bob Isaac, Planner, explained how the operation became a legal non-conforming use after the adoption of new regulations regarding quarries and borrow pits last year. He also explained the current requested amendment would not change their non-conforming status.

Nyle Larson asked that the boundaries be pointed out again.

Chairman Mosier asked if the site would be exempt from reclamation.

John Eichman said that the operation was exempt from the County reclamation requirements but not the State requirements.

Chairman Mosier asked the applicant to explain his request.

John Eichman explained that it is economically feasible to move the plant site to the edge of the dredging instead of the area that was previously zoned “D-3” (Heavy Industrial). The agricultural ground, included in this conditional use request, is no longer useable as farm ground, due to the sand deposited from the 1993 flood.

Chairman Mosier asked if anyone wanted to speak for or against the request.

Roger Nauerth, an adjacent land owner, was concerned about the operation moving to the north of its existing location. He explained that any operations within the old river channel could inadvertently block stormwater drainage and divert it onto his property.

Mr. Eichman said that he has learned in the past that you cannot keep the floodwaters out of the area but can only try to divert water away by excavating certain areas so floodwater can escape.

Bob Buchanan asked where the old channel goes across the area.

Nauerth pointed the area out.

Mr. Nauerth said his main concern was when Riley and Leonardville get heavy rains and cause Wildcat Creek to overflow in this area that the water is able to drain like it’s supposed to.

Eichman stated that he also wants the water to drain properly as backup water causes him problems too.

Nyle Larson suggested a condition be added that no overburden be stored in the low area or the old river channel.

Chairman Mosier asked why Wamego Sand Co. wants to stay “grandfathered” and be exempt from the borrow pit regulations.

Mr. Eichman said he had discussed his options with staff and arrived at a solution that benefited the County and Wamego Sand Co.

Mr. Isaac explained that the existing conditional use was established when the sites’ predecessor Kershaw Ready Mix desired to replace a building destroyed by the 1993 flood. He added that the legal description of the area was vague and difficult to actually map. The amendment of the existing site provides a clear legal description and accurate site plan of the operation.

Nyle Larson moved to approve the request with the following conditions:

1. Sand and gravel extraction shall be limited to the area shown on the site plan.
2. No extraction shall be permitted on the 10.37-acre tract, as shown on the site plan, unless this conditional use is amended for such purpose.
3. Applicant will not obstruct the natural drainage of the area.

Bob Buchanan seconded. The motion carried 3-0.

The meeting was adjourned at 2:40 p.m.